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Feminist Jurisprudence- Rejection of Patriarchy

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Abstract

Robin West, Judith Baer, and Catherine A. MacKinnon are feminist theorists who seek to confront law as an institution of patriarchy and reshape it to include the condition and experiences of women. I examined their writings to identify the problems they see in liberal legalism and the solutions they propose to undo patriarchy.

Summary

In "Jurisprudence and Gender" from *Understanding the Law*, Robin West critiques the Hobbesian story, its application in law under the "separation thesis", and liberal legalism as being based on male experiences only. Through these mechanisms, law excludes women's values and protects autonomy. This masculine vision confines all humans into ill-fitting definitions. She seeks to empower women against the patriarchal enforcement of motherhood and heterosexual intercourse. In *Our Lives Before the Law*, Judith Baer confronts the division of life into public and private spheres and the socially destructive dichotomy this division creates. Baer proposes a feminist post-liberal jurisprudence with respect toward needs influencing law. In "Toward Feminist Jurisprudence" from *Toward a Feminist Theory of the State*, Catherine A. MacKinnon exposes liberal legalism's enforcement of patriarchy as invisible and legitimate. She writes to fight against men's protected "privacy" rights to pornography and against discrimination on sexuality because it is gender-based.

Question

What Solution Does Each Feminist Theorist Propose to Undo Patriarchy?

West

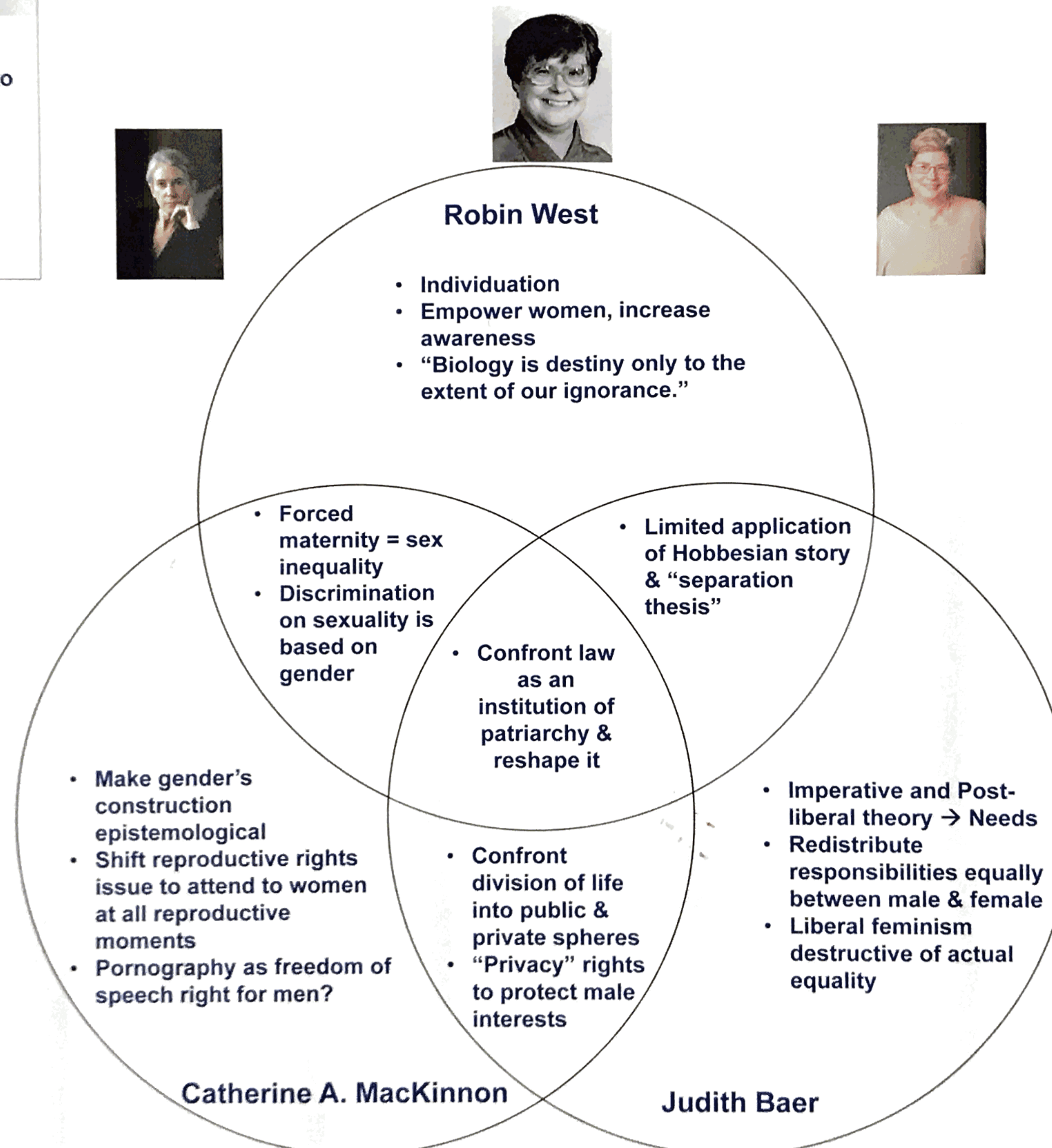
- Destroy institutions that render heterosexual intercourse & motherhood compulsory
- Empowerment of women through education
- Individuation of women to encourage power of choice
- Refuse to let biology limit our fate

Baer

- Institute female-specific imperative and post-liberal theory to resolve contradiction between human rights and human needs
- Redistribution of responsibilities between men & women

MacKinnon

- Raise female consciousness
- Recognize sex inequality as an institution to be reformed
- Recognize female vulnerability at all reproductive moments
- Give women reproductive rights appropriate to their condition



Conclusion

These feminists realize that an end to patriarchy is not going to happen overnight, but nothing magical occurs with the passage of time. Adrienne Rich articulates the challenge of the radical feminist vision requiring a "quantum leap" of imagination. MacKinnon reiterates the gravity of this undertaking by reminding us that, "a feminist theory of the state has barely been imagined; systematically, it has never been tried". The feminist challenge requires a fearlessness in men and women to push aside biology and our preconceived, and limiting, definitions from the liberalist doctrine and to author our own fate.